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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,159	08/16/2001	Hitoshi Iwasaka	1609.1001	1497

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EXAMINER

RINEHART, KENNETH

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/930,159

Applicant(s)

IWASAKA ET AL.

Examiner

Kenneth B Rinehart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 15-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

After careful consideration of applicant's remarks in regard to the propriety of the restriction requirement made in the office action dated 6/28/02, the examiner continues to maintain the election of species requirement is proper. Contrary to applicant's remarks, there is a considerable burden to consider the separate patentability of (8) disclosed mutually exclusive and patentably distinct embodiments. The restriction requirement is hereby made FINAL. Additionally, the species are distinct since one embodiment contains limitations that the other does not. For example, the other species contain arms, ionization devices, and the vibration of fluid with ultrasonic frequency that the elected embodiment does not.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the concave opening having a polygonal inner peripheral surface must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the object" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 3-5, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Siniaguine et al (6099056). Siniaguine et al shows a concave opening (groove 12, fig. 2A) having a continuous walled inner peripheral surface (18, fig. 2B), an end face that opposes the object to be conveyed, the end face being formed in the concave opening (14, fig. 2b), a fluid passageway (15, fig. 2A) comprising a spout facing the inside of the concave opening (24, fig. 2A) so as to cause a swirl of fluid within the concave opening (fig. 1B), the spout is approximately tangential to the inner peripheral surface (fig. 2a, fig. 2b), a plurality of spouts face the inside of the concave opening such that the plurality of spouts together cause the swirl of fluid within the concave opening (fig. 1B), a centering guide to maintain the object to be conveyed such that the object opposes the end face (13, fig. 2b), a base with a plurality of concave openings are provided on the base (fig. 5), each concave opening having an end face formed therein (112 a-d, fig. 5) and a fluid passageway comprising a spout facing the inside

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thereof (124a-d), wherein the spouts of the concave openings face different directions such that fluid swirls in a clockwise direction in a first portion of the concave openings and fluid flows in a counter clockwise direction in a second portion of the concave openings (fig. 5), the base is surrounded with a peripheral edge to block a flow of fluid off the base (13, fig. 5b),

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siniaguine et al (6099056). Siniaguine et al discloses a concave opening (groove 12, fig. 2A) having a continuous walled inner peripheral surface (18, fig. 2B), an end face that opposes the object to be conveyed, the end face being formed in the concave opening (14, fig. 2b), a fluid passageway (15, fig. 2A) comprising a spout facing the inside of the concave opening (24, fig. 2A) so as to cause a swirl of fluid within the concave opening (fig. 1B), the noncontacting conveyance equipment has an outer periphery (fig. 1b), and the centering guide comprises ... centering protrusions provided around the outer periphery (13, fig. 8). Siniaguine et al discloses applicant's invention substantially as claimed with the exception of the concave opening has a polygonal inner peripheral surface, at least three. It would have been an obvious matter of design choice to modify Siniaguine et al to provide the concave opening has a polygonal inner peripheral surface, since applicant has not disclosed that polygonal figure solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and

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it appears that the claimed feature does not distinguish the invention over similar features in the prior art, since the figure of Siniaguine will perform the invention as claimed by the applicant. It would have been an obvious matter of design choice to modify Siniaguine et al to provide at least three, since applicant has not disclosed that the number of protrusions solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art, since plurality of features of Siniaguine will perform the invention as claimed by the applicant.

***Allowable Subject Matter***

Claims 7-9, 13, 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of art with respect to contactless lifters in general: Olosson (3438688), Sinaguine et al (6095582), Hawkswell (4610473), Sinaguine et al (6402843).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B Rinehart whose telephone number is 703-308-1722. The examiner can normally be reached on 7:30-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-2597. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-308-7764 for regular communications and 703-308-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

A handwritten signature in cursive script, appearing to read "H.B. Reinhardt".

KBR

September 19, 2002